

Date: September 23, 2014

To: City Council



From: Tanya Wilson-Sejour, AICP, Planning Manager, Community Planning & Development

Re: Brownfield Area Designation – Rucks Park Site, located at 13780 NE 5th Avenue, North Miami, FL 33161 (Folio No. 06-2219-000-1620)

**A RESOLUTION OF THE VICE MAYOR AS ACTING MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, , FLORIDA, MAKING CERTAIN FINDINGS AND DESIGNATING THE REAL PROPERTY IDENTIFIED BY MIAMI-DADE COUNTY FOLIO NO. 06-2219-000-1620, AS FURTHER IDENTIFIED BY THE MAP IN THE ATTACHED EXHIBIT “A”, AS A BROWNFIELD AREA PURSUANT TO SECTION 376.80, FLORIDA STATUTES, FOR THE PURPOSE OF ENVIRONMENTAL REHABILITATION, JOB CREATION AND PROMOTING ECONOMIC REDEVELOPMENT; AUTHORIZING THE CITY MANAGER TO NOTIFY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION OF SAID DESIGNATION; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.**

#### **RECOMMENDATION**

Staff requests that the Mayor and City Council approve the proposed Resolution designating the 6.319 acre property owned by the City and formerly also known as Rucks Park located at 13780 NE 5<sup>th</sup> Avenue, in the City of North Miami, with folio number 06-2219-000-162 as a brownfield area.

#### **PLANNING COMMISSION RECOMMENDATION**

At its meeting on September 2<sup>nd</sup> 2014, the Planning Commission (attended by Commissioners James, Ernst, Seifried and Prevatel) reviewed and discussed the proposed resolution to designate the vacant City owed parcel, consisting of 6.31 acres, as a brownfield area. The consultant provided an overview of the environmental challenges that currently hinder the site from development and shared the benefits that may be derived from a brownfield designation. The Planning Commission discussed and unanimously recommended approval of the proposed brownfield area designation by a vote of 4-0.

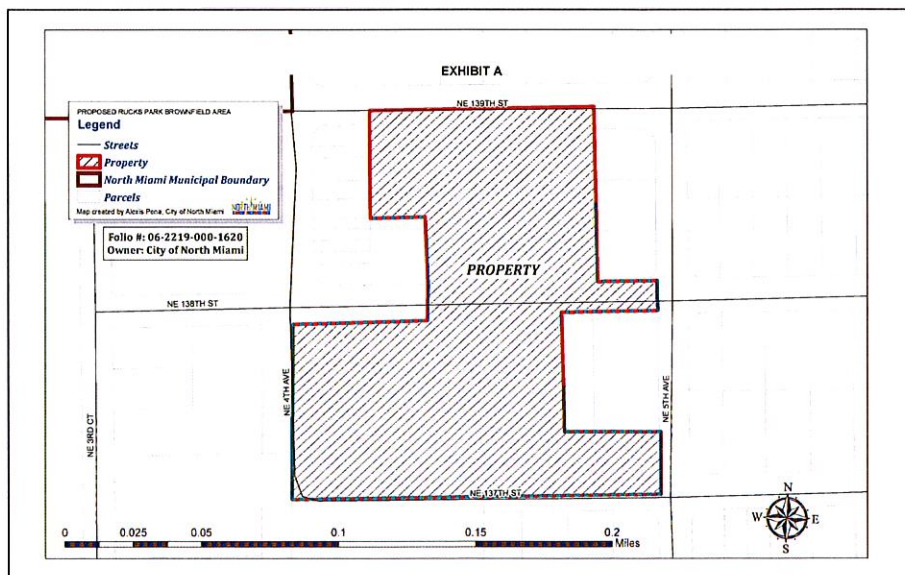
## BACKGROUND

The Subject Property was previously operated from 1963 to 1983 as a wastewater treatment plant, which included use of a portion of the Subject Property as a plant nursery. Former site uses at the Subject Property have resulted in documented on and off-site soil and groundwater contamination that exceed state regulatory cleanup target levels, which will require the City to clean up the Subject Property in accordance with applicable State and Miami-Dade County environmental regulatory standards. Designating the Subject Property a brownfield area prior to initiating cleanup will enable the City to pursue brownfield-related financial incentives and liability protections in connection with the environmental cleanup. Please see survey of the subject property as Attachment 2. Following completion of any necessary environmental remediation the City will be able to increase utilization and the general condition of the vacant Subject Property by redeveloping it for conservation, recreation, healthcare, and/or residential uses.

The site map attached as Exhibit A shows the location of the Subject Property.

## Overview

The purpose of designating a brownfield area is to promote environmental restoration and economic redevelopment, and more sustainable growth patterns, among other purposes. Environmental restoration of vacant or underutilized property has historically demonstrated to remove stigma, reduce blight, improve air and stormwater quality, eliminate environmental health hazards, and in turn, spur redevelopment and revitalization. By statutory definition, brownfields encompass real property where expansion, redevelopment, or reuse of which has been or may be complicated by actual or perceived environmental contamination.



Since 1997, the Florida Brownfields Program (“FBP”) has made a wide array of financial, regulatory, and technical incentives available to local governments, businesses, and communities to catalyze environmental cleanup and economic redevelopment of marginalized or otherwise underutilized properties. In doing so, the FBP has encouraged confidence in neighborhood revitalization and investment of private capital in land reuse and job creation in hundreds of communities throughout Florida. According to figures provided by the State of Florida Department of Environmental Protection (“FDEP”), as of August 2013, 341 areas covering more than 234,499 acres have been designated as brownfields, generating over \$2.4 billion in private capital investment. Brownfield areas have enjoyed a wide range of redevelopment uses, including affordable housing, community health clinics, retail and commercial, renewable energy, transportation facilities, and conservation and recreation.

### **The Designation Process and Analysis**

Pursuant to Florida Statutes, to initiate the brownfield area designation process, a local government must follow the applicable procedures specified in Section 376.80, including (1) pass the resolution attached hereto as Attachment 1; (2) notify the FDEP and Miami-Dade County Department of Regulatory and Economic Resources of its decision to adopt the brownfield area designation resolution; (3) and provide notice to the public in accordance with §§ 376.80(1)(c) and § 166.041(3)(c)2, Florida Statutes. Additionally the City may consider the following four criteria:

1. whether the proposed brownfield area warrants economic development and has a reasonable potential for such activities;
2. whether the proposed brownfield area represents a reasonably focused approach and is not overly large in geographic coverage;
3. whether the proposed brownfield area has potential to interest the private sector in participating in rehabilitation; and
4. whether the proposed brownfield area contains a portion of the site suitable for limited recreational open space, cultural, or historical preservation purposes.

Note that for brownfield area designations initiated by a local government, where the proposed brownfield area is located within a community redevelopment area, the brownfield statute does not require the local government to consider the aforementioned enumerated criteria. Rather, the local government may simply consider them in connection with its deliberations and determination. Staff has considered the factors in making this recommendation that the proposed designation of the Rucks Park Brownfield Area is appropriate and concludes as follows:

1. The proposed brownfield area warrants economic development and, with the brownfields area designation, has a reasonable potential for such activities. Currently, the area is fallow and economically unproductive due, in part, to the environmental risk associated with returning the area to beneficial use. A designation will enable the area to receive financial and regulatory incentives specifically created to encourage voluntary cleanup and redevelopment of the area. Specifically, a designated brownfield area can be eligible to receive a sales tax credit on building materials purchased for the construction of certain types of projects, receive state loans guarantees, receive tax credits for costs incurred in connection with voluntary cleanup, as well as access to state and federal grants. Please note that with respect to the tax credits, although local governments do not pay Florida corporate income taxes, the tax credits can be transferred to an entity that has Florida corporate income tax liability or sell them on a secondary market for approximately .80 cents per dollar. Accordingly, the adoption of a brownfield designation resolution is a critical first step to unlocking resources and incentives targeted at rebuilding the environment and improving quality of life for local residents.
2. The proposed brownfield area represents a reasonably focused approach and is not overly large in geographic coverage. Based on Staff's analysis of the 341 brownfield designations adopted in the State of Florida through August 1, 2013, approximately 97 are between .5 acres and 10 acres in size. This number represents over 28% of all designated brownfield areas. The proposed area to be designated by the City is both manageable and reasonably focused, and presents suitable conditions for the City to undertake environmental rehabilitation and redevelopment.
3. Designating the area a brownfield will spark further interest in the private sector in participating in rehabilitation. The significant financial regulatory, technical, and liability incentives that become available upon designation of a brownfield area have historically been demonstrated to increase developer and end-user investment and activity both onsite and in the general vicinity of the brownfield area. A complete list of such incentives can be found at Exhibit B.
4. While the brownfield designation criteria do not require that the redeveloped Subject Property include recreational open space, the City is carefully considering including such uses in the final redevelopment site plan. Staff concludes that there is nothing specific about the proposed brownfield area that makes it suitable for cultural or historical preservation purposes.

### **Impact of the Brownfield Area Designation on the City of North Miami**

Approval of designating the Subject Property a brownfield area will not create any legal or financial obligation for rehabilitation and remediation for the City that the City does not already

have due to its ownership of the Subject Property. Accordingly, adoption of Staff's recommendation to approve the designation request will not adversely impact the City's operations.

### CONCLUSION

Based on the above analysis, Staff is of the opinion that designating the Subject Property a brownfield area directly aligns with the City's efforts to spark environmental rehabilitation and increase redevelopment. Additionally, Staff concludes that the City has complied with the applicable procedural requirements for designation of a brownfield in accordance with Section 376.80, Florida Statutes, and has demonstrated that the statutorily enumerated considerations have been adequately considered.

TWS/bp

#### Attachments:

1. Proposed Resolution
2. Survey of subject property
3. Exhibit A – Site Map for the Subject Property
4. Exhibit B - Florida Brownfields Program Financial Incentives

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE VICE MAYOR AS ACTING MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, MAKING CERTAIN FINDINGS AND DESIGNATING THE REAL PROPERTY IDENTIFIED BY MIAMI-DADE COUNTY FOLIO NO. 06-2219-000-1620, AS FURTHER IDENTIFIED BY THE MAP IN THE ATTACHED EXHIBIT “A”, AS A BROWNFIELD AREA PURSUANT TO SECTION 376.80, FLORIDA STATUTES, FOR THE PURPOSE OF ENVIRONMENTAL REHABILITATION, JOB CREATION AND PROMOTING ECONOMIC REDEVELOPMENT; AUTHORIZING THE CITY CLERK TO NOTIFY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION OF SAID DESIGNATION; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.**

**WHEREAS**, the State of Florida has provided, in Chapter 97-277, Laws of Florida, which is codified at Sections 376.77 through 376.86, Florida Statutes (2014), for the designation of a “brownfield area” by local government adoption of a resolution in order to promote environmental remediation, redevelopment, economic development and revitalization; and

**WHEREAS**, the proposed brownfield area consists of property formerly occupied by the Rucks Park Wastewater Treatment Plant, Miami-Dade County Folio No. 06-2219-000-1620 (hereinafter the “Rucks Park Site”) as shown in the attached Exhibit “A” and more particularly described in Exhibit “B” (both attached hereto); and may be developed for conservation, recreation, healthcare, and/or residential uses; and

**WHEREAS**, the City of North Miami, Florida (the “City”) owns the Rucks Park Site and is designating it as a brownfield area pursuant to Section 376.80, Florida Statutes (2014); and

**WHEREAS**, the Vice Mayor as Acting Mayor and City Council have reviewed the relevant procedures that apply in designating a brownfield area, as specified in Section 376.80, Florida Statutes (2014), and find the City in compliance with the statutory requirements; and

**WHEREAS**, proper notice of the designation of the proposed brownfield area has been provided in accordance with Section 376.80(1)(c) and Section 166.041(3)(c)2, Florida Statutes (2014); and

**WHEREAS**, the City Council finds as follows:

1. The proposed brownfield area warrants economic development and has a reasonable potential for such activities;
2. The proposed brownfield area represents a reasonably focused approach and is not overly large in geographic coverage;
3. The proposed brownfield area has potential to interest the private sector in participating in rehabilitation; and
4. The proposed brownfield area contains a portion of the site suitable for limited recreational open space; and

**WHEREAS**, the Vice Mayor as Acting Mayor and City Council have determined that the proposed brownfield area designation on the subject property is in the best interest of the City, and advantageous to the public health, safety and welfare; and

**WHEREAS**, the City desires to notify the Florida Department of Environmental Protection of its resolution designating the Rucks Park Site a brownfield area to further its rehabilitation and redevelopment for the purposes enunciated under Sections 376.77 through 376.86, Florida Statutes (2014).

**NOW THEREFORE, BE IT RESOLVED BY THE VICE MAYOR AS ACTING MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:**

**Section 1. Recitals.** The foregoing recitals are true and correct and incorporated herein by this reference.

**Section 2. Adoption of Representations.** The Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, find that the City has satisfied the requirements to designate a proposed brownfield area set forth in Section 376.80, Florida Statutes (2014).

**Section 3. Property Designation.** The Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, hereby designate the area depicted on Exhibit "A" and described on Exhibit "B", attached hereto and incorporated herein by reference, as a "brownfield area" for purposes of Sections 376.77 through 376.86, Florida Statutes (2014).

**Section 4. Authorization to City Clerk.** The Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, hereby authorize the City Clerk to notify the Florida Department of Environmental Protection of the City Council's resolution designating the Rucks Park Site a brownfield area for purposes of Sections 376.77 through 376.86, Florida Statutes (2014).

**Section 5.**    **Effective Date.** This Resolution shall become effective immediately upon adoption.

**PASSED AND ADOPTED** by a \_\_\_\_\_ vote of the Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, this \_\_\_\_\_ day of September, 2014.

\_\_\_\_\_  
PHILIPPE BIEN-AIME  
VICE MAYOR AS ACTING MAYOR

ATTEST:

\_\_\_\_\_  
MICHAEL A. ETIENNE, ESQ.  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
REGINE M. MONESTIME  
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

**Vote:**

Vice Mayor as Acting Mayor Philippe Bien-Aime  
Councilperson Scott Galvin  
Councilperson Carol Keys, Esq.  
Councilperson Marie Erlande Steril

_____	(Yes)	_____	(No)
_____	(Yes)	_____	(No)
_____	(Yes)	_____	(No)
_____	(Yes)	_____	(No)



## LEGAL DESCRIPTION

**Folio No. 06-2219-000-1620**

A PORTION OF THE NORTHWEST ONE-QUARTER (N.W.  $\frac{1}{4}$ ), OF THE SOUTHEAST ONE-QUARTER (S.E.  $\frac{1}{4}$ ), OF THE SOUTHWEST ONE-QUARTER (S.W.  $\frac{1}{4}$ ) OF SECTION 19, TOWNSHIP 52 SOUTH, RANGE 42 EAST, TOGETHER WITH A PORTION OF THE RIGHT-OF-WAY FOR N.E. 138<sup>th</sup> STREET (TO BE VACATED) AS SHOWN ON THE PLAT OF HYSTAN SUBDIVISION, RECORDED IN PLAT BOOK 66, PAGE 77 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID NORTHWEST ONE-QUARTER (N.W.  $\frac{1}{4}$ ). OF THE SOUTHEAST ONE-QUARTER (S.E.  $\frac{1}{4}$ ), OF THE SOUTHWEST ONE-QUARTER (S.W.  $\frac{1}{4}$ ); THENCE SOUTH 00°04'49" WEST, ALONG A PORTION OF THE EAST LINE OF SAID NORTHWEST ONE-QUARTER (N.W.  $\frac{1}{4}$ ), OF THE SOUTHEAST ONE-QUARTER (S.E.  $\frac{1}{4}$ ), OF THE SOUTHWEST ONE-QUARTER (S.W.  $\frac{1}{4}$ ), A DISTANCE OF 359.34 FEET; THENCE NORTH 89°57'26" WEST, A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE WEST RIGHT-OF-WAY LINE OF N.E. 5<sup>th</sup> AVENUE; THENCE CONTINUE NORTH 89°57'26" WEST, A DISTANCE OF 167.71 FEET; THENCE SOUTH 00°19'48" WEST, A DISTANCE OF 170.00 FEET; THENCE NORTH 89°40'12" EAST, A DISTANCE OF 166.50

FEET TO A POINT ON SAID WEST RIGHT-OF-WAY LINE; THENCE SOUTH 00°04'49" WEST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 109.84 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF S.W. 137<sup>th</sup> STREET, SAID LINE ALSO BEING 25.00 FEET NORTH OF AS MEASURED AT RIGHT ANGLES TO THE SOUTH LINE OF SAID NORTHWEST ONE-QUARTER (N.W.  $\frac{1}{4}$ ), OF THE SOUTHEAST ONE-QUARTER (S.E.  $\frac{1}{4}$ ), OF THE SOUTHWEST ONE-QUARTER (S.W.  $\frac{1}{4}$ ); THENCE NORTH 89°40'12" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 638.15 FEET TO A POINT ON THE WEST LINE OF SAID NORTHWEST ONE-QUARTER (N.W.  $\frac{1}{4}$ ), OF THE SOUTHEAST ONE-QUARTER (S.E.  $\frac{1}{4}$ ), OF THE SOUTHWEST ONE-QUARTER (S.W.  $\frac{1}{4}$ ); THENCE NORTH 00°06'41" EAST, ALONG SAID WEST LINE, A DISTANCE OF 282.31 FEET; THENCE NORTH 89°45'19" EAST, A DISTANCE OF 229.90 FEET; THENCE NORTH 00°12'45" WEST, A DISTANCE OF 144.51 FEET; THENCE SOUTH 89°47'15" WEST, A DISTANCE OF 96.08 FEET TO A POINT ON THE EAST LINE OF SANTEE ESTATES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 115, PAGE 96 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE NORTH 00°06'41" EAST, ALONG SAID EAST LINE, A DISTANCE OF 187.34 FEET TO THE NORTHEAST CORNER OF LOT 1, BLOCK 1 OF SAID SANTEE ESTATES; THENCE NORTH 89°47'15" EAST, ALONG A LINE 25.00 FEET SOUTH AND PARALLEL WITH, AS MEASURED AT RIGHT ANGLES TO THE NORTH LINE OF SAID NORTHWEST ONE-QUARTER (N.W.  $\frac{1}{4}$ ), OF THE SOUTHEAST ONE-QUARTER (S.E.  $\frac{1}{4}$ ), OF THE SOUTHWEST ONE-QUARTER (S.W.  $\frac{1}{4}$ ) A DISTANCE OF 399.01 FEET TO A POINT ON THE EAST LINE OF THE WEST 532 FEET OF SAID NORTHWEST ONE-QUARTER (N.W.  $\frac{1}{4}$ ), OF THE SOUTHEAST ONE-QUARTER (S.E.  $\frac{1}{4}$ ), OF THE SOUTHWEST ONE-QUARTER (S.W.  $\frac{1}{4}$ ), SAID LINE BEING COINCIDENT WITH THE WEST LINE OF SAID HYSTAN SUBDIVISION; THENCE SOUTH 00°06'41" WEST, ALONG SAID WEST LINE, A DISTANCE OF 281.60 FEET TO THE SOUTHWEST CORNER OF LOT 3 OF SAID HYSTAN SUBDIVISION; THENCE NORTH 89°43'44" EAST, ALONG THE SOUTH LINE OF SAID LOT 3 AND ITS EASTERLY EXTENT/ON A DISTANCE OF 105.96 FEET TO A POINT ON SAID WEST RIGHT-OF-WAY LINE OF N.E. 5<sup>th</sup> AVENUE; THENCE SOUTH 00°04'49" WEST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 52.74 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF NORTH MIAMI, MIAMI-DADE COUNTY, FLORIDA AND CONTAINING 6.319 ACRES (275,256 SQUARE FEET) MORE OR LESS.

**EXHIBIT A**

PROPOSED RUCKS PARK BROWNFIELD AREA

**Legend**

- Streets
- Property
- North Miami Municipal Boundary
- Parcels

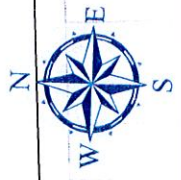
Map created by Alexis Pena, City of North Miami



**Folio #: 06-2219-000-1620**  
**Owner: City of North Miami**



NE 3RD CT



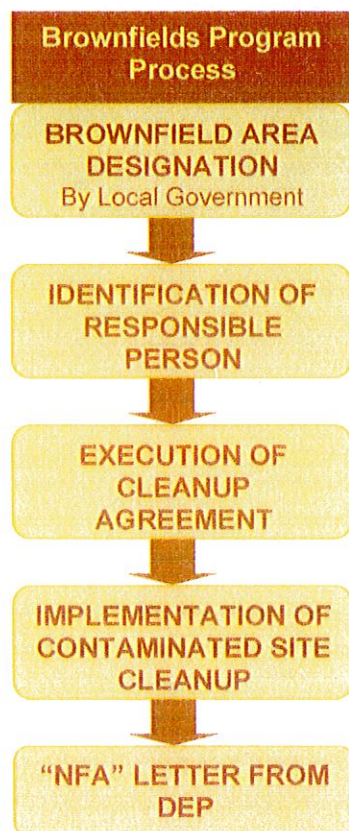


# FLORIDA BROWNFIELDS REDEVELOPMENT PROGRAM

TRANSFORMING COMMUNITIES

**Brownfield site** means real property, the expansion, redevelopment or reuse of which may be complicated by actual or perceived environmental contamination. 376.79(3), F.S.

**Brownfield area** means a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and Environmental Protection Agency-designated brownfield pilot projects. 376.79(4), F.S.



## BROWNFIELD PROGRAM TERMS

**Responsible Person**—Person Responsible for Brownfield Site Rehabilitation or PRFBSR

**Agreement**—Brownfield Site Rehabilitation Agreement or BSRA

**NFA**—No Further Action (i.e., Site Rehabilitation Completion Order or SRCO)

## BROWNFIELDS PROGRAM BENEFITS

### Brownfield Area Designation

- Bonus refund for job creation—up to \$2,500 per job
- Loan guarantees for primary lenders
  - ◆ Up to 50% on all sites
  - ◆ Up to 75% when end use is affordable housing
- Sales tax credit on building materials
- Brownfield area benefits administered by Enterprise Florida, Inc.

### Brownfield Site Rehabilitation Agreement

- All benefits of Brownfield Area
- Regulatory framework for cleanup (Chapter 62-785, F.A.C.)
- Dedicated staff—expedited technical review
- Liability protection
- Tax credits
  - ◆ Florida corporate income tax
  - ◆ Credits may be transferred one time
- Brownfield Site Rehabilitation Agreement benefits administered by DEP

Summary of Available Tax Credits			
Tax Credit Type	Application Frequency	Maximum Credit for Costs Incurred after 6/30/06	
Site Rehabilitation	Annually	50%	\$500,000
No Further Action (i.e. SRCO)	Once	25%	\$500,000
Affordable Housing, health care facility or health care provider	Once	25%	\$500,000
Solid Waste (Removal, Transport, and Disposal)	Once	50%	\$500,000

LOCAL GOVERNMENT INITIATED BROWNFIELD AREA DESIGNATION FOR PROPERTY LOCATED WITHIN A CRA PROCESS TIMELINE		
City of North Miami Former Rucks Park Wastewater Treatment Plant ("Rucks Park") 437 NE 137th Street, North Miami, FL 33161		
TIMING	ACTIVITY	
Thursday, July 10, 2014	Strategic Kick-off Meeting with the Community Planning and Development Department, Public Works Department staff, and The Goldstein Environmental Law Firm, P.A. ("GELF").	
<i>Dates Pending (July 16, July 21, and/or July 22, 2014)</i>	Brief Mayor and City Council on brownfield designation.	
The Week of July 28, 2014	GELF to prepare a staff memorandum and draft brownfield designation resolution for review and comment.	
The Week of July 28, 2014	GELF to prepare a draft Brownfield Site Rehabilitation Agreement ("BSRA").	
Late July/Early August	City and GELF to host a one hour brownfield workshop for the community.	
The week of August 4, 2014	Submission of draft BSRA to Miami Dade County Department of Regulatory and Economic Resources ("DRER") for review and comment.	
Tuesday, September 02, 2014	Publication of notice for initial public hearing on brownfield designation.	
Tuesday, September 02, 2014	Brief Planning Commission on brownfield designation.	
Tuesday, September 09, 2014	Initial public hearing on brownfield designation.	
Friday, September 12, 2014	Publication of notice for final public hearing on brownfield designation.	
Tuesday, September 23, 2014 or October 14, 2014	Final public hearing on brownfield designation.	
No later than 30 Days Following Adoption of the Brownfield Resolution	City to provide notice and a copy of the adopted brownfield designation resolution to Florida Department of Environmental Protection and DRER.	
No later than 30 Days Following Adoption of the Brownfield Resolution	City to execute the Brownfield Site Rehabilitation Agreement.	